

# STATE OF COLORADO

## EXECUTIVE CHAMBERS

136 State Capitol  
Denver, Colorado 80203-1792  
Phone: (303) 866-2471



Bill Owens  
Governor

May 1, 2003

### *The Honorable Colorado Senate*

Sixty-Fourth General Assembly  
First Regular Session  
State Capitol Building  
Denver, CO 80203

Ladies and Gentlemen:

I am filing with the Secretary of State the following act:

SENATE BILL 03-258, CONCERNING THE PROVISION FOR PAYMENT OF THE EXPENSES OF THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL DEPARTMENTS OF THE STATE OF COLORADO, AND OF ITS AGENCIES AND INSTITUTIONS, FOR AND DURING THE FISCAL YEAR BEGINNING JULY 1, 2003, EXCEPT AS OTHERWISE NOTED.

Approved in part and disapproved in part on May 1, 2003, at 5:14 A.

It is my constitutional obligation to review the general appropriations bill and exercise the line item veto when necessary. While I have approved Senate Bill 03-258 (the "FY 2003-04 Long Bill") as a whole, I have vetoed headnotes and footnotes within the bill. Pursuant to the Colorado Constitution, I have filed copies of the vetoed items from this bill, with my objections, with the Secretary of State.

The following text explains my vetoes to the Long Bill:

## VETO AND COMMENT ON HEADNOTES AND FOOTNOTES

Article IV, Section 12 of the Colorado Constitution allows me to exercise line item vetoes on any bill making appropriations of money, including the general appropriations bill (the "Long Bill"). I have full discretion with regard to the items I choose to veto. I have exercised this power to veto certain portions of the FY 2003-2004 Long Bill that do not meet with my approval.

I vetoed a number of headnotes and footnotes that violate Article III and/or Article V of the Constitution. Article III provides separation of powers between the executive and legislative branches. While the legislative branch has the authority to appropriate state funds, the executive branch has the inherent responsibility and authority to administer state funds. Therefore, the legislature may not attach conditions in the Long Bill that intrude into the administration of state government. Anderson v. Lamm, 579 P.2d 620 (Colo. 1978); Colorado General Assembly v. Lamm, 704 P.2d 1371 (Colo. 1985). I have vetoed provisions that go beyond appropriating funds and infringe on the executive authority.

In addition, Article V, Section 32 prohibits the legislature from including substantive legislation in the Long Bill. Anderson v. Lamm; Colorado General Assembly v. Lamm. The executive department cannot abide by legislative directives that are in violation of the Colorado Constitution. Accordingly, I have vetoed provisions of substantive legislation in the Long Bill.

Many of the headnote and footnote vetoes provided below are identical to the vetoes I exercised in the FY 2002-2003 Long Bill, and I exercised this power for the same reasons. For clarification purposes only, in this year's veto letter I have expanded my veto message for several provisions in this Long Bill to include the constitutional problems I have identified above.

I have lined through the following items, thereby vetoing these provisions:

### SECTION 1: HEADNOTES

---

- Section 1. Definitions – general provisions, headnote (1), pages 1-2:** (1) (a) "Capital outlay" means: (I) Equipment, furniture, motor vehicles, software, and other items that have a useful life of one year or more and that cost less than fifty thousand dollars; (II) Alterations and replacements, meaning major and extensive repair, remodeling, or alteration of buildings, the replacement thereof, or the replacement and renewal of the plumbing, wiring, electrical, fiber optic, heating, and air conditioning systems therein, costing less than fifteen thousand dollars; (III) New structures, meaning the construction of entirely new buildings where the cost will be less than fifteen thousand dollars, including the value of materials and labor, either state-supplied or supplied by contract; (IV) Nonstructural improvements to land, meaning the grading, leveling, drainage, irrigation, and landscaping thereof and the construction of roadways, fences, ditches, and sanitary and storm sewers, where the cost will be less than five thousand dollars. (b) "Capital outlay" does not include those things defined as capital construction by section 24-75-301, Colorado Revised Statutes.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. The State has experienced significant budget challenges in recent years. State revenues have been decreasing, and since October 2001 I have ordered restrictions on General Fund spending. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business and of the current fiscal situation. In order to provide flexibility for departments to administer the appropriations so that impacts in services to citizens are minimized, I am vetoing this headnote. Furthermore, this provision may represent substantive legislation and as such it would be in violation of Article V, Section 32 of the Colorado Constitution. In addition, the dollar amounts listed in this headnote have not been changed since 1977. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Because this headnote violates one or more articles of the state constitution, it is constitutionally void.

2. **Section 1. Definitions – general provisions, headnote (3), pages 2-3:** (3) (a) (I) Except as otherwise provided in paragraph (b) of this subsection, “full time equivalent” or “FTE” means the budgetary equivalent of one permanent position continuously filled full time for an entire fiscal year by elected state officials or by state employees who are paid for at least two thousand eighty hours per fiscal year, with adjustments made to: (A) Include in such time computation any sick, annual, administrative, or other paid leave; and (B) Exclude from such time computation any overtime or shift differential payments made in excess of regular or normal hours worked and any leave payouts upon termination of employment. (II) “Full time equivalent” or “FTE” does not include contractual, temporary, or permanent seasonal positions. (III) As used in this paragraph (a), “state employee” means a person employed by the state, whether or not such person is a classified employee in the state personnel system. (b) For purposes of higher education professional personnel and assistants in resident instruction and professional personnel in organized research and activities relating to instruction, “full time equivalent” or “FTE” means the equivalent of one permanent position continuously filled for a nine-month or ten-month academic year. (c) The maximum limitation on the number of FTE that are allowed for the fiscal year to which this act pertains may comprise any combination of part-time positions or full-time positions so long as the maximum FTE limitation is not exceeded.

I vetoed this headnote last year. The Colorado Supreme Court concluded in 1978 that legislative attempts to administer the appropriation by placing “specific staffing and resource allocation decisions” in a general appropriations bill were unconstitutional. *Anderson v. Lamm*, 195 Colo. 437, 579 P.2d 620 (1978). The Supreme Court in so doing recognized that the ability to make staffing decisions is one of the most fundamental components of managing state government. Therefore, this headnote and its references are constitutionally void. Such a headnote inhibits the executive branch's authority to administer the appropriation and is thus unconstitutional. Furthermore, this provision may represent substantive legislation and as such it would be in violation of Article V, Section 32 of the Colorado Constitution.

3. **Section 1. Definitions – general provisions, headnote (4), page 3:** (4) “Health, life, and dental” means the state contribution for group benefits plans pursuant to section 24-50-609, Colorado Revised Statutes. Pursuant to section 24-50-609, Colorado Revised Statutes, the state of Colorado shall contribute an amount necessary to pay one hundred seventy-three dollars and ninety-two cents per month per single employee, two hundred fifty dollars and thirty-nine cents per month per employee with one covered dependent, and three hundred forty-four dollars and thirty-three cents per employee with two or more covered dependents for each employee enrolled in a group benefit plan that includes enrollment in medical benefits. In accordance with section 24-50-609 (3) (b), Colorado Revised Statutes, these contribution amounts shall commence on December 1, 2003. Funds appropriated for health, life, and dental shall not be expended for any other purpose.

This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. The State has experienced significant budget challenges in recent years. State revenues have been decreasing, and since October 2001 I have ordered restrictions on General Fund spending. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state’s business and of the current fiscal situation. In order to provide flexibility for departments to administer the appropriations so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision may represent substantive legislation and as such it would be in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state’s constitution, the headnote and its references are constitutionally void.

4. **Section 1. Definitions – general provisions, headnote (6), page 4:** (6) “Lease purchase” means the use and acquisition of equipment under an agreement to purchase, pursuant to which payments are made for a period of longer than one year and are subject to annual appropriation. “Lease purchase” may also include payments made under the agreement for the maintenance of the equipment. No funds shall be expended for lease purchases except those specifically appropriated for such purpose. The provisions of this subsection (6) shall not apply to the board of regents of the university of Colorado; the state board of agriculture; the board of trustees of the Colorado school of mines; the board of trustees of the university of northern Colorado; the trustees of the state colleges in Colorado; the state board for community colleges and occupational education (except for administration and the division of occupational education); the board for the Auraria higher education center; the state historical society; the Colorado council on the arts; the division of wildlife; the water conservation board; the county departments of social services; and the low-income energy assistance block grant.

I vetoed this headnote last year. This headnote unconstitutionally interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. The State has experienced significant budget challenges in recent years. State revenues have been decreasing, and since October

2001 I have ordered restrictions on General Fund spending. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business and of the current fiscal situation. In order to provide flexibility for departments to administer the appropriations so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision may represent substantive legislation and as such it would be in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

5. **Section 1. Definitions – general provisions, headnote (7), page 4:** (7) “Leased space” means the use and acquisition of office facilities and office and parking space pursuant to a rental agreement. No funds shall be expended for leased space except pursuant to a specific appropriation for such purpose. The provisions of this subsection (7) shall not apply to the board of regents of the university of Colorado; the state board of agriculture; the board of trustees of the Colorado school of mines; the board of trustees of the university of northern Colorado; the trustees of the state colleges in Colorado; the state board for community colleges and occupational education (except for administration and the division of occupational education); the board for the Auraria higher education center; the state historical society; the Colorado council on the arts; the division of wildlife; the water conservation board; the county departments of social services; and the low-income energy assistance block grant.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. The State has experienced significant budget challenges in recent years. State revenues have been decreasing, and since October 2001 I have ordered restrictions on General Fund spending. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business and of the current fiscal situation. In order to provide flexibility for departments to administer the appropriations so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision may represent substantive legislation and as such it would be in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

6. **Section 1. Definitions, headnote (8), page 4:** (8) “Legal services” means the purchase of legal services from the department of law; however, up to ten percent of the amount appropriated for legal services may instead be expended for operating expenses, contractual services, and tuition for employee training. No funds shall be expended for legal services

except those specifically appropriated for such purpose. The provision of this subsection (8) shall not apply to the departments of education, higher education, transportation, and the risk management fund in the department of personnel.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. I vetoed this headnote last year. Legal services expenditures are not discretionary in protecting the interest of the state and its citizens. Limiting the departments' ability to expend funds for these services would result in ineffective administration of the government. However, I recognize the need to contain state expenditures for legal services. I will instruct the departments to use all necessary restraint in legal service expenditures and to provide an accurate annual accounting of all legal expenditures to the Joint Budget Committee. Furthermore, this provision may represent substantive legislation and as such it would be in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

7. **Section 1. Definitions – general provisions, headnote (10), page 5:** (10) “Operating expenses” means: (a) Supplies and materials, meaning items that by their nature are consumable and that have a useful life of less than one year or that, after usage, undergo an impairment of, or a material change in, physical condition, including, but not limited to, books, periodicals, and educational, laboratory, medical, data processing, custodial, postal, office, photographic, and road maintenance supplies and materials; (b) Current charges, meaning charges for items or services not otherwise defined in this section for which a separate appropriation is not made, including, but not limited to, charges for utilities, trash removal, custodial services, telecommunications, data processing, advertising, freight, rentals of equipment and property, storage, parking, minor repair or maintenance, and printing and reproduction, and insurance premiums, dues, subscriptions, casualty losses, commissions, royalties, interest, fees, fines, reimbursements, and payments of prizes, awards, and judgments other than to state employees as compensation; except that no funds appropriated for operating expenses may be expended for vehicle lease payments, leased space, or lease purchase unless otherwise authorized by law; (c) Capital outlay, as defined in subsection (1) of this section. (d) The cost of travel by common carrier or by state-owned or privately owned conveyance and the costs of meals and lodging incident to such travel.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. The State has experienced significant budget challenges in recent years. State revenues have been decreasing, and since October 2001 I have ordered restrictions on General Fund spending. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business and of the current fiscal situation. In order to provide flexibility for departments to administer the appropriations so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters,

provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision may represent substantive legislation and as such it would be in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

8. **Section 1. Definitions – general provisions, headnote (11), pages 5-6:** (11) “Personal services” means: (a) All salaries and wages, whether to full-time, part-time, or temporary employees of the state, and also includes the state's contribution to the public employees' retirement fund and the state's share of federal Medicare tax paid for state employees. Payments for overtime shall be in compliance with rules and procedures adopted by the state personnel director. (b) Professional services, meaning services requiring advanced study in a specialized discipline that are rendered or performed by firms or individuals for the state other than for employment compensation as an employee of the state, including but not limited to accounting, consulting, architectural, engineering, physician, nurse, specialized computer, and construction management services. Payments for professional services shall be in compliance with section 24-30-202 (2) and (3), Colorado Revised Statutes. (c) Temporary services, meaning clerical, administrative, and casual labor rendered or performed by firms or individuals for the state other than for employment compensation as an employee of the state. Payments for temporary services shall be in compliance with section 24-30-202 (2) and (3), Colorado Revised Statutes. (d) Tuition, meaning payments for graduate or undergraduate courses taken by state employees at institutions of higher education. (e) Payments for unemployment insurance as required by the department of labor and employment.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. The State has experienced significant budget challenges in recent years. State revenues have been decreasing, and since October 2001 I have ordered restrictions on General Fund spending. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business and of the current fiscal situation. In order to provide flexibility for departments to administer the appropriations so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision may represent substantive legislation and as such it would be in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

9. **Section 1. Definitions – general provisions, headnote (12), page 6:** (12) “Purchase of services from computer center” means the purchase of automated data processing services from the general government computer center.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the

Colorado Constitution. The State has experienced significant budget challenges in recent years. State revenues have been decreasing, and since October 2001 I have ordered restrictions on General Fund spending. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business and of the current fiscal situation. In order to provide flexibility for departments to administer the appropriations so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision may represent substantive legislation and as such it would be in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

10. **Section 1. Definitions – general provisions, headnote (13), page 6:** (13) “Short-term disability” means the state contribution for employee short-term disability pursuant to section 24-50-603, Colorado Revised Statutes. No funds appropriated for short-term disability shall be expended for any other purpose.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. The State has experienced significant budget challenges in recent years. State revenues have been decreasing, and since October 2001 I have ordered restrictions on General Fund spending. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business and of the current fiscal situation. In order to provide flexibility for departments to administer the appropriations so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision may represent substantive legislation and as such it would be in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

11. **Section 1. Definitions – general provisions, headnote (14), page 6:** (14) “Utilities” means water, sewer service, electricity, payments to energy service companies, purchase of energy conservation equipment, and all heating fuels.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. The State has experienced significant budget challenges in recent years. State revenues have been decreasing, and since October 2001 I have ordered restrictions on General Fund spending. It is important to preserve the



executive authority to administer appropriations in order to allow effective management of the business of the state and of the current fiscal situation. In order to provide flexibility for departments to administer the appropriations so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision may represent substantive legislation and as such it would be in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

12. **Section 1. Definitions – general provisions, headnote (15), page 6:** (15) “Vehicle lease payments” means the annual payments to the department of personnel for the cost of administration, repayment of a loan from the state treasury, and lease-purchase payments for new and replacement vehicles. No funds shall be expended for vehicle lease payments except those specifically appropriated for such purposes. The provisions of this subsection (15) shall not apply to the departments of education, higher education, and transportation.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. The State has experienced significant budget challenges in recent years. State revenues have been decreasing, and since October 2001 I have ordered restrictions on General Fund spending. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business and of the current fiscal situation. In order to provide flexibility for departments to administer the appropriations so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision may represent substantive legislation and as such it would be in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

13. **Section 1. Definitions – general provisions, headnote (16), page 7:** (16) “Multiuse Network Payments” means payments to the Department of Personnel and Administration for the cost of administration and the use of the state's telecommunications network. No funds appropriated for multiuse network payments shall be expended for any other purpose.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. The State has experienced significant budget challenges in recent years. State revenues have been decreasing, and since October 2001 I have ordered restrictions on General Fund spending. It is important to preserve the

executive authority to administer appropriations in order to allow effective management of the state's business and of the current fiscal situation. In order to provide flexibility for departments to administer the appropriations so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision may represent substantive legislation and as such it would be in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

14. **Section 1. Definitions, headnote (19), page 7:** (19) Where no purpose is specified or where a special program is specified, the appropriation shall be for contractual services, tuition, and operating expenses and, only if the appropriation includes a specified FTE limitation, for personal services other than contractual services.

I vetoed this last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. The State has experienced significant budget challenges in recent years. State revenues have been decreasing, and since October 2001 I have ordered restrictions on General Fund spending. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business and of the current fiscal situation. In order to provide flexibility for departments to administer the appropriations so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision may represent substantive legislation and as such it would be in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

15. **Section 1. Definitions, headnote (21), page 7:** (21) When it is not feasible, due to the format of this act, to set forth fully in the line item description the purpose of an item of appropriation or a condition or limitation on the item of appropriation, the footnotes at the end of each section of this act refer to provisions which set forth such purposes, conditions, or limitations, and such provisions are therefore intended to be binding portions of the items of appropriation to which they relate. In other cases, where clearly expressed, footnotes refer to statements which are not intended by the general assembly to be binding portions of appropriations but which are related to the indicated item or items of appropriation. Such nonbinding statements include explanations of the assumptions used in making appropriations, the general assembly's intent with respect to future appropriations, and requests on the part of the general assembly for particular administrative action in connection with items of appropriation.

I vetoed this headnote last year. This headnote indicates that footnotes refer to provisions which set forth purpose, conditions, or limitations regarding the appropriation and states that provisions are therefore intended to be “binding portions” of the items of appropriations to which they relate. Any footnote that interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution is invalid. Any footnote that constitutes substantive legislation is in violation of Article V, Section 32 of the Colorado Constitution. I will consider footnotes to be advisory, not binding.

## SECTION 2: FOOTNOTES

---

1. **Footnote 1a, page 18:** Department of Agriculture, Agricultural Services Division, Personal Services – It is the intent of the General Assembly that the Department of Agriculture provide 2.0 FTE to the Bureau of Animal Protection without an increase to the number of total FTE appropriated to the Agricultural Services Division. Such an allocation of FTE may be accomplished through lay-offs or vacancies in other programs, employee turnover or other methods.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. The Colorado Supreme Court concluded in 1978 that legislative attempts to administer the appropriation by placing specific staffing and resource allocation decisions in a general appropriations bill were unconstitutional. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

2. **Footnote 2, pages 18, 33, 43, 50, 65, 79, 107, 129, 140-141, 148, 151-152, 160, 165, 181, 196, 225-226, 241, 250, 265, 273, and 278:** All Departments, Totals – Every department is requested to submit to the Joint Budget Committee information on the number of additional federal and cash funds exempt FTE associated with any federal grants or private donations that are applied for or received during FY 2003-04. The information should include the number of FTE, the associated costs (such as workers' compensation, health and life benefits, need for additional space, etc.) that are related to the additional FTE, the direct and indirect matching requirements associated with the federal grant or donated funds, the duration of the grant, and a brief description of the program and its goals and objectives.

This footnote violates the separation of powers in Article III of the Colorado Constitution in that it is attached to federal funds and private donations, which are not subject to legislative appropriation. Placing information requirements on such funds could constitute substantive legislation in the general appropriations bill in violation of Article V, Section 32 of the Colorado Constitution. In addition, this footnote is an unfunded mandate in that it would require a significant devotion of resources.

3. **Footnote 4, pages 33-34, 107-108, 130, 241, and 265:** Department of Corrections, Management, Executive Director's Office Subprogram; Department of Human Services,

Mental Health and Alcohol and Drug Abuse Services, Alcohol and Drug Abuse Division; and Division of Youth Corrections; Judicial Department, Probation and Related Services; Department of Public Safety, Division of Criminal Justice; Department of Revenue, Motor Vehicle Business Group, Motor Vehicle Division; and Department of Transportation, Office of Transportation Safety – State agencies involved in multi-agency programs requiring separate appropriations to each agency are requested to designate one lead agency to be responsible for submitting a comprehensive annual budget request for such programs to the Joint Budget Committee. Each agency is still requested to submit its portion of such request with its own budget document. This applies to requests for appropriation from the Drug Offender Surcharge Fund, the Sex Offender Surcharge Fund, the Persistent Drunk Driver Cash Fund, and the Alcohol and Drug Driving Safety Fund, among other programs.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format of the Executive budget submission. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the departments to comply to the extent feasible.

4. **Footnote 5, page 34:** Department of Corrections, Management, External Capacity Subprogram, Payments to House State Prisoners, Private Facilities – It is the intent of the General Assembly that the appropriations made for payments to private facilities housing state inmates be used exclusively for the purpose of per diem payments. The Department is not authorized to withhold funds from the per diem payments to cover major medical expenses incurred by state inmates assigned to private facilities. It is the intent of the General Assembly that appropriations made in the medical services subprogram are sufficient to cover major medical expenses incurred by state inmates held in both state and private facilities.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. It is my hope that the Department of Corrections will be able to fund all medical services for the department out of the line item appropriation for medical services for inmates. However, the State is required to provide these medical services and a request for additional funding may occur.

5. **Footnote 6, page 34:** Department of Corrections, Institutions, Utilities Subprogram, Utilities – The Department of Corrections is requested to continue the energy management program designed to reduce overall energy consumption in the department's facilities. Up to \$100,000 of the Department's utility appropriation may be for this program and a portion of these funds may be used to hire the equivalent of 1.0 FTE as an energy management program manager. The Department is requested to submit with its annual budget document a detailed accounting of any savings achieved as a result of the program and a summary of funds used to hire the 1.0 FTE.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. According to a 1978 court case, the General Assembly has no authority to appropriate or prescribe limits on FTE. In addition, this footnote may violate Article V, Section

32 because it constitutes substantive legislation. I will instruct the department and the controller to follow the legislative intent of the footnote.

6. **Footnote 7, pages 34, and 108:** Department of Corrections, Institutions, Medical Services Subprogram; and Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Mental Health Institutes – It is the intent of the General Assembly that fifty percent of beds and services at the General Hospital at CMHI Pueblo be permanently allocated for the use of the Department of Corrections. The Department of Corrections is expected to work with the Department of Human Services to determine the most appropriate use of this resource. It is anticipated that the Department of Corrections will no longer pay the Department of Human Services on a case or service basis for the use of these beds but will instead pay the Department of Human Services in equal monthly increments to cover the Department of Corrections' share of hospital costs. The Departments are requested to report to the Joint Budget Committee about the effectiveness of this funding structure, and any modifications that may be recommended, by October 1, 2003.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will instruct the departments to come to a mutual agreement of a payment plan.

7. **Footnote 10, page 35:** Department of Corrections, Inmate Programs, Community Reintegration Subprogram – The Department is requested to track recidivism rates for the inmates provided assistance through this program for five years after release of an inmate. The Department is further requested to report, in their annual budget submission, a comparison of the recidivism rate of the inmates who are assisted through this program as compared to the overall recidivism rates for other inmates released from the Department.

This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format of the executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will direct the department to comply with the intent of the footnote.

8. **Footnote 11, page 35:** Department of Corrections, Inmate Programs, Community Reintegration Subprogram, Offender Re-employment Center – It is the intent of the General Assembly that no new General Fund dollars will be used for the Offender Re-employment Center and that the Department use funds received as gifts, grants, and donations for this center. Existing General Fund dollars may be used as a match for gifts, grants, and donations but shall not be used if they are to be considered a maintenance of effort. Of the amount appropriated in this line, up to \$94,000 may be used for the acquisition of leased space notwithstanding the provisions outlined in head note number 7 with regard to leased space.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Furthermore, this footnote attempts to appropriate gifts, grants, and donations that are not subject to legislative appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation.

9. **Footnote 12, page 35:** Department of Corrections, Community Services, Parole Intensive Supervision Subprogram; and Community Intensive Supervision Subprogram – It is the intent of the General Assembly that the Department shall maintain a ratio of 1 officer to 25 offenders in these subprograms and not add additional FTE unless warranted by an anticipated increase in the offender caseload.

I vetoed this footnote last year. This footnote attempts to administer the appropriation and violates the separation of powers in Article III of the Colorado Constitution. The General Assembly has no authority to appropriate or prescribe limits on FTE. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will instruct the department to comply to the extent feasible.

10. **Footnote 14, pages 43-44:** Department of Education, Assistance to Public Schools, Public School Finance, State Share of Districts' Total Program Funding – The Department is requested to include in its annual budget request information concerning the Colorado preschool program. The information provided should include the following for FY 2002-03: (a) A list of participating districts; (b) the funded pupil count (FTE) allocated to each participating district and a description regarding how such allocation was determined; (c) data reflecting the ratio of each district's funded pupil count for the preschool program to its funded pupil count for kindergarten; (d) data indicating the number of three-year-old children that participated in each district's preschool program; (e) data indicating the number of children that participated in each district's preschool program for a full-day rather than a half-day; (f) data indicating the number of preschool program FTE each district used to provide a full-day kindergarten component; (g) the state and local shares of each district's total program funding that is attributable to the preschool program; and (h) whether or not each district contracted for preschool services with community providers.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format of the executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation.

11. **Footnote 15, pages 44, and 80:** Department of Education, Assistance to Public Schools, Categorical Programs; and Department of Higher Education, Division of Occupational Education, Colorado Vocational Act Distributions pursuant to Section 23-8-102, C.R.S. – The Department of Education is requested to work with the Department of Higher Education and to include in its annual budget request information concerning each categorical program. For grant programs, such information should include, but not be limited to: (a) The total number and dollar amount of requests received; (b) the amount awarded or distributed to each district, board of cooperative services, or administrative unit; and (c) a description of the criteria utilized to evaluate requests and to determine grant awards. For other programs, such information should include, but not be limited to: (a) The total amount distributed to each district, board of cooperative services, or administrative unit; (b) the total amount that each entity would be eligible to receive pursuant to state law and/or State Board of Education rule; and (c) a description of the method or formula used to determine the amount for which entities are eligible and to distribute funds.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format of the executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation.

- 12. Footnote 16, page 44:** Department of Education, Assistance to Public Schools, Categorical Programs, Other Categorical Programs, Federal Special Education Grant for Infants, Toddlers, and Their Families – The Department is requested to include in its annual budget request information concerning the expenditure of federal funds provided pursuant to Part C of the federal Individuals with Disabilities Education Act for the most recent state fiscal year. Such information should include sufficient detail to identify expenditures related to the provision of direct services, by type of service.

I vetoed this footnote last year. The General Assembly has no authority to appropriate federal funds. Furthermore, this footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation.

- 13. Footnote 18, page 50:** Governor - Lieutenant Governor - State Planning and Budgeting, Office of the Governor; Office of the Lieutenant Governor; Office of State Planning and Budgeting; Economic Development Programs; and Office of Innovation and Technology – Each of these offices is requested to develop and maintain an Information Technology Inventory and Asset Management Plan. The General Assembly requests that the Office of Innovation and Technology assist the offices with the development of these plans and deliver them to the Joint Budget Committee no later than October 1, 2003.

I vetoed this footnote last year. This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote would require a substantial dedication of resources in a time of significantly reduced budgets.

- 14. Footnote 19, page 50:** Governor - Lieutenant Governor - State Planning and Budgeting, Office of the Governor; and Office of State Planning and Budgeting – As part of the FY 2004-05 budget submission, the Office of State Planning and Budgeting is requested to provide a report on indirect cost recoveries from federal programs that are administered through the Office of the Governor or that are not shown elsewhere in the Long Bill. The report should include an analysis, by federal program, of: Statewide and departmental indirect costs collected in FY 2001-02 and FY 2002-03; where funds collected were spent; the potential for additional indirect cost collections in FY 2003-04 and future years; and the potential for offsetting General Fund expenditures in the Office of the Governor or other departments through these collections. For each federal program that was not assessed statewide and departmental indirect costs, the report should explain why these costs were not assessed.

I vetoed this footnote last year. This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with

the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. The General Assembly has no authority to appropriate federal funds. Furthermore, the Governor's Office is already part of the statewide indirect cost plan developed by the Department of Personnel; thus provision of this information would be redundant.

15. **Footnote 20, pages 50-51:** Governor - Lieutenant Governor - State Planning and Budgeting, Office of the Governor, Governor's Office, Administration of Governor's Office and Residence; and Other Programs and Grants – The Governor's Office is requested to provide to the Joint Budget Committee, with its FY 2004-05 budget request, information pertaining to federal and cash exempt funds received and expected to be received. This information should include the amount and source of each grant, any matching and maintenance of effort requirements, duration of the grant, as well as the name of the program or project and number of FTE the funds will support.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation and by dictating the content of the Executive budget request. Requesting additional information on non-appropriated sources within the Governor's Office restricts the flexibility of the Office. Furthermore, the General Assembly has no authority to appropriate federal money or to prescribe limits on FTE. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department not to comply with the footnote request.

16. **Footnote 21, pages 51, and 196-197:** Governor - Lieutenant Governor - State Planning and Budgeting, Office of State Planning and Budgeting; and Department of Personnel and Administration, Division of Human Resources, Human Resource Services – The Department of Personnel and Administration shall comply with the statutory provisions of Section 24-50-110 (1)(d), C. R. S., and is requested to provide other state departments with the information necessary to comply with this statute. The Office of State Planning and Budgeting and the Department of Personnel and Administration are requested to work with the departments to improve the timeliness and accuracy of information about state personnel. Improvements, at a minimum, should include: updating personnel information on a centralized computerized data base; accurate reporting of filled FTE positions; number of reclassifications that are approved, turnover rates by agency; tracking of FTE positions funded to FTE positions filled; an accurate count of part-time and temporary FTE positions; and elimination of unused FTE positions. The Department of Personnel and Administration and the Office of State Planning and Budgeting are requested to submit a consolidated statewide personnel report to the General Assembly by September 1, 2003. This report should include, by line item and department, a summary of vacant positions, the length of time each position has been vacant, and the number of reclassifications that were approved in FY 2002-03.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. For the last four years, my administration has worked diligently to provide the Joint Budget Committee (JBC) with information



on FTE within existing resources. My administration has provided the JBC with more information on FTE than any prior administration and will continue to work cooperatively with the JBC. However, the full amount of information requested in this footnote is not available and to make this information available would require significant investments in computer technology and human resources. Without these investments, the footnote constitutes an unfunded mandate. I will continue to direct representatives from the Governor's Office and the Department of Personnel and Administration to provide the requested information to the extent feasible given available data and resource constraints.

17. **Footnote 23, page 51:** Governor - Lieutenant Governor - State Planning and Budgeting, Office of State Planning and Budgeting – The Commission on Information Management, in conjunction with the Office of State Planning and Budgeting, is requested to submit a priority list for all state information technology projects requested in the FY 2004-05 budget requests by November 1, 2003.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. The Office of State Planning and Budgeting does not review budget requests from elected officials, the Legislative Branch, or the Judicial Branch. I will direct the Office of State Planning and Budgeting, in conjunction with the Office of Innovation and Technology, to prioritize the information technology requests of the Executive Branch departments according to programmatic priorities and to provide this report to the JBC by November 2003. However, I will not require the offices to prioritize non-executive requests in this list.

18. **Footnote 25, page 51:** Governor - Lieutenant Governor - State Planning and Budgeting, Office of State Planning and Budgeting; and Office of Innovation and Technology – The General Assembly requests the Office of State Planning and Budgeting and the Office of Innovation and Technology to work with Joint Budget Committee staff and departmental staff to develop recommendations for standardizing Long Bill information technology appropriations in order to achieve consistency in long bill appropriations for information technology. The Office of State Planning and Budgeting and the Office of Innovation and Technology are requested to report their recommendations for such a system to the General Assembly no later than November 1, 2003.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by directing the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

19. **Footnote 26, page 52:** Governor - Lieutenant Governor - State Planning and Budgeting, Office of State Planning and Budgeting, Office of Innovation and Technology – The Office of State Planning and Budgeting and the Office of Innovation and Technology are requested to provide a report to the Joint Budget Committee, by November 1, 2003, that summarizes statewide spending on information technology. For each department, this report should include the FY 2001-02 and FY 2003-04 appropriations and actual spending for: (1) Information

technology maintenance; (2) information technology support personnel and related operating expenses; (3) maintenance of ongoing systems; (4) long-term information technology projects; (5) short-term information technology projects; and (6) other information technology costs.

I vetoed this footnote last year. This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote requires a substantial dedication of resources. The full amount of information requested in this footnote is not available and to make this information available would require significant investments in computer technology and human resources. Without these investments, the footnote constitutes an unfunded mandate.

In order to provide as much information as possible, codes have been set up in the financial accounting system to enable the reporting of actual information technology spending by category with the exception of personal services. This information will be available by November 1, 2003.

- 20. Footnote 27, page 52:** Governor - Lieutenant Governor - State Planning and Budgeting, Economic Development Programs, International Trade Office – The International Trade Office is requested to provide its FY 2002-03 annual report to the Joint Budget Committee by November 1, 2003. The report should include the following information: Number of new and existing companies assisted; activity reports from overseas representatives and offices; number of incoming missions; and regional export activities.

I vetoed this footnote last year. This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Additionally, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate.

- 21. Footnote 27a, page 52:** Governor – Lieutenant Governor – State Planning and Budgeting, Economic Development Programs, Colorado Promotion – Other Program Costs – This program is requested to submit to the Joint Budget Committee a report outlining how it spent the \$9,000,000 supplemental appropriation it received in FY 2002-03, and a cost-benefit analysis of such expenditures. It is requested that this report be provided January first of each fiscal year until the appropriation is accounted for.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate.

- 22. Footnote 28, page 52:** Governor - Lieutenant Governor - State Planning and Budgeting, Economic Development Programs, Economic Development Commission - General Economic

Incentives and Marketing – In its annual report to the General Assembly, the Economic Development Commission is requested to provide an analysis and summary of programs and activities undertaken to assist the economies of rural areas of the state. For each project in a rural area, the report should include the following information: The location; recipient; purpose; dollar amount received from the Commission; local and/or private matching contributions; and other economic development assistance provided by the state for that project, such as job training. The report should also provide the total dollar amount provided by the Commission to rural areas, the percentage of total Commission assistance that went to rural areas, and information on any rural projects that applied for but did not receive Commission assistance.

I vetoed this footnote last year. This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. I have long emphasized to the Economic Development Commission the importance of rural economic development and will continue to do so.

23. **Footnote 29, pages 52-53, and 80:** Governor - Lieutenant Governor - State Planning and Budgeting, Economic Development Programs, Colorado First Customized Job Training; and Department of Higher Education, Division of Occupational Education, Colorado First Customized Job Training – This program is requested to submit to the Joint Budget Committee by November 1, 2003, a detailed plan for accountability, including review criteria for selection of companies to participate, the number of new jobs created by the programs, the number of unemployed and underemployed individuals who were trained and employed by this program, the amount of new personal income, state personal, and corporate income tax generated by this program, the time period for repayment of state investment in this program, and the number of persons taken off state support programs and the money saved thereby.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate.

24. **Footnote 30, page 53:** Governor - Lieutenant Governor - State Planning and Budgeting, Office of Innovation and Technology – The Office of Innovation and Technology and the Division of Finance and Procurement within the Department of Personnel are requested to provide a report to the Joint Budget Committee, by November 1, 2003, that describes steps taken to increase the ease of information technology procurement and compliance with state technology standards by state agencies. This report should include the status of: (1) The quarterly Desktop Standards, including updates on which desktop models from each vendor meet the state standards for each class of user; (2) the quarterly Desktop Standards, including updated pricing standards; (3) posting the quarterly Desktop Standards on-line; (4) updating the state pricing agreement website pages for each vendor to show the cost for models for each class of user; and (5) linking the quarterly Desktop Standards internet site to the BIDs system.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I am committed to increasing the ease of information technology procurement and compliance with State technology standards by State agencies. Therefore, I will direct the department to comply with the footnote to the extent feasible.

- 25. Footnote 33, page 66:** Department of Health Care Policy and Financing, Medical Services Premiums – The department is requested to submit a report on the managed care organizations' capitation rates for each population and the estimated blended rate for each aid category in effect for fiscal year 2003-04 to the joint budget committee by July 25, 2003.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill.

- 26. Footnote 36, page 66:** Department of Health Care Policy and Financing, Medical Services Premiums – The Department is requested to work with pharmacy providers, including institutional and community pharmacies, both independent and chains, pharmaceutical manufacturers, legislators, and stakeholders to determine a methodology to reduce Medicaid prescription drug costs, specifically the utilization and cost of such pharmaceuticals. The Department is requested to report its analysis and recommendations to the Joint Budget Committee no later than November 1, 2003.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. We continually strive to lower pharmacy costs and have implemented measures to save approximately \$37 million in pharmacy costs over three years. The department has already provided extensive information regarding pharmaceutical costs and potential methodologies to reduce drug costs to the Joint Budget Committee. Staffing the working group proposed in this footnote would drive significant meeting time and staff resources; thus constituting an unfunded mandate. Since the department has already done much of this work, I see no reason for them to once again duplicate this effort.

- 27. Footnote 37, page 66:** Department of Health Care Policy and Financing, Indigent Care Program, Safety Net Provider Payments – It is the intent of the General Assembly that the intergovernmental transfers provided through the Medicare Upper Payment Limit funding mechanism in these line items be used to address Medicaid funding shortfalls paid through the General Fund. It is the General Assembly's understanding that there will not be an intergovernmental transfer in FY 2003-04.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be

included in the general appropriations bill. Furthermore, this intergovernmental transfer no longer exists due to the lowering of Medicare rates and the restructuring of the safety net lines in the Department's budget. I will direct the department not to comply with this request.

- 28. Footnote 38, page 66:** Department of Health Care Policy and Financing, Indigent Care Program, Safety Net Provider Payments – The department is requested to submit a report by February 1, 2004, which evaluates the use of the new methodology to distribute disproportionate share and major teaching hospital payments.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. I will direct the department to comply to the extent feasible.

- 29. Footnote 39, page 67:** Department of Health Care Policy and Financing, Indigent Care Program, Children's Basic Health Plan Premium Costs – This appropriation assumes an average medical cost per child of \$1,051.80 per year (\$87.65 per member per month), not including dental services, and assumes an estimated average monthly caseload of 50,571 children.

This footnote contains caseload information for the Children's Basic Health Plan that is not accurate. Therefore, I am vetoing this footnote. I intend to sign SB 291 as passed by the General Assembly that assumes an estimated average caseload of 52,965 children. The average medical cost per child assumed within this footnote is accurate.

- 30. Footnote 41, pages 67, and 108-109:** Department of Health Care Policy and Financing, Department of Human Services Medicaid-Funded Programs; and Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Mental Health Community Programs, Mental Health Capitation – The Departments are requested to provide a report to the Joint Budget Committee by October 1, 2003, that reviews their proposals and plans for the Medicaid mental health capitation program for FY 2003-04 and future years. The report should specifically address the following issues: (1) Progress on the development of a model for setting new capitation rates; (2) the feasibility of addressing some of the inequities in rates paid in various regions of the State prior to a rebid of the program; (3) any plans to expand the program to other services; and (4) any recommendations for statutory changes.

I vetoed this footnote last year. This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate. I will direct the department not to comply.

- 31. Footnote 42, pages 67, and 109:** Department of Health Care Policy and Financing, Department of Human Services Medicaid-Funded Programs; and Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Mental Health Community Programs, Medicaid Anti-Psychotic Pharmaceuticals -- The Departments are requested to report to the Joint Budget

Committee by October 1, 2003, on their progress toward managing Medicaid mental health pharmaceutical costs. This report should include an expected time line for planned activities, as well as estimates of the programmatic and fiscal impacts of any changes.

I vetoed this footnote last year. This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. I will direct the Department to comply to the extent feasible.

- 32. Footnote 43, pages 67-68, and 109:** Department of Health Care Policy and Financing, Department of Human Services Medicaid-Funded Programs, Office of Information Technology Services - Medicaid Funding, Colorado Benefits Management System (CBMS); and Department of Human Services, Office of Information Technology Services, Colorado Benefits Management System (CBMS) – It is the understanding of the General Assembly that the primary goal of the Colorado Benefits Management System (CBMS) project is to streamline several county administrative functions by creating a single, integrated, eligibility and client management system that will minimize manual and paper-intensive processes. The 1997 feasibility study that was prepared for the CBMS project included an analysis of the annual savings that would result from the statewide implementation of CBMS, estimating \$31.0 million in annual savings from all fund sources. The feasibility study did not include an analysis of the impact of medical application sites. A re-analysis in December 2000 projects annual savings of \$13.0 million. Further project changes anticipated as of March 2002 are expected to result in the level of savings being further reduced to \$12.4 million. It is the intent of the General Assembly that, once CBMS is fully implemented statewide, various appropriations will be adjusted to reflect the resulting cost savings. It is further the intent of the General Assembly that such adjustments be based on an objective analysis of the impact of the implementation of CBMS on the Department of Health Care Policy and Financing, the Department of Human Services, and county departments of social services.

This footnote implies an unfunded mandate in that there is no funding to conduct the objective analysis intended by the footnote. Additionally, this footnote creates expectations about budget reductions that the departments believe are no longer feasible due to the steep budget cuts already taken in the project.

- 33. Footnote 45, pages 80, and 197:** Department of Higher Education, Colorado Commission on Higher Education; Governing Boards and Local District Junior Colleges; Auraria Higher Education Center; and Department of Personnel and Administration, Executive Office – The Department of Personnel and Administration is requested to submit, after consultation with the Colorado Commission on Higher Education and with the higher education governing boards, a report to the Joint Budget Committee by September 1, 2003, that analyzes alternatives to higher education's participation in the fleet management program. The report should identify cost-effective options that may provide more flexibility to higher education, including the scenario in which higher education is exempted from this program. The report should provide a comparison of cost estimates of the options identified.

I vetoed this footnote last year. This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with

the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, complying with this footnote would take a significant amount of staff resources away from other duties within the Department of Personnel and Administration, the Colorado Commission on Higher Education, and the higher education governing boards. This report was already submitted on December 3, 2001 and, given current resource constraints, I do not believe that duplicating this report is in the best interests of the State.

- 34. Footnote 46, pages 80-81:** Department of Higher Education, Colorado Commission on Higher Education – For the FY 2004-05 budget request, the Colorado Commission on Higher Education is directed to submit a unified budget request representing all functions performed by the Governing Boards and Local District Junior Colleges. This request should include the independent Colorado State University agencies and the various occupational education programs under the Colorado Community College and Occupational Education System. In recognition of the state's General Fund appropriation limitation, the Commission is directed to limit the total General Fund increase requested to no more than six percent.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

- 35. Footnote 47, page 81:** Department of Higher Education, Colorado Commission on Higher Education; and Governing Boards and Local District Junior Colleges, Regents of the University of Colorado – It is the intent of the General Assembly that in the future requests for enrollment funding for the University of Colorado Health Sciences Center's nursing program will be calculated in a manner similar to the request for enrollment funding for all other higher education institutions.

This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

- 36. Footnote 49, page 81:** Department of Higher Education, Colorado Commission on Higher Education Financial Aid – The Department should continue its efforts to provide data on the efficiency and effectiveness of state financial aid in expanding access to higher education for Colorado residents. The Department is requested to provide to the Joint Budget Committee by November 1 of each year an evaluation of financial aid programs, which should include, but not be limited to: 1) an estimate of the amount of federal, institutional, and private resources (including tax credits) devoted to financial aid; 2) the number of recipients from all sources; 3) information on typical awards; and 4) the typical debt loads of graduates. To the extent possible the Department should differentiate the data based on available information about the demographic characteristics of the recipients. To the extent that this information is not currently available, the Department is requested to provide a reasonable estimate, or identify the additional costs that would be associated with collecting the data.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. This footnote requires a substantial dedication of resources and constitutes an unfunded mandate. Furthermore, much of the information requested in this report is not available.

37. **Footnote 50, page 81:** Department of Higher Education, Colorado Commission on Higher Education Financial Aid, Need Based Grants, Governor's Opportunity Scholarships – The Department is requested to submit a report to the Joint Budget Committee by November 1, 2003, comparing the retention rates of students receiving Governor's Opportunity Scholarships with retention rates for low-income students receiving other types of financial aid packages.

I vetoed this footnote last year. This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, the footnote entails a substantial workload increase and some of the information is not available. However, I will direct the department to provide this information to the extent feasible.

38. **Footnote 53, page 82:** Department of Higher Education, Governing Boards and Local District Junior Colleges, Trustees of the State Colleges in Colorado; Trustees of Metropolitan State College; Board of Governors of the Colorado State University System; Trustees of Fort Lewis College; Regents of the University of Colorado; Trustees of the Colorado School of Mines; University of Northern Colorado; State Board for Community Colleges and Occupational Education State System Community Colleges – It is the intent of the General Assembly that each governing board may increase tuition rates by an amount calculated to generate up to a maximum of 10 percent additional revenue from resident students not including the effects of enrollment changes. These rates are used in order to increase spending authority for program enhancements and this is not an attempt by the General Assembly to set tuition policy. Each governing board will give consideration to establishing equity of tuition increases among the campuses and programs under the governing board's jurisdiction. In addition to the tuition increases outlined above, the General Assembly has approved an additional \$7,643,990 in tuition spending authority for the Regents of the University of Colorado as follows: \$1,100,000 for tuition rate increases in programs associated with the college of business at the Boulder campus; \$435,904 for nursing, doctor of medicine, physical therapy, and doctor of dental surgery programs at the Health Sciences Center; and \$6,108,086 for the "Quality for Colorado" initiative at the Boulder campus.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, it is important for the State's labor force to be positioned to grow with the demands of the 21st century and having one of the most educated workforces in the nation is one of Colorado's greatest selling points. As a result, we need to encourage Colorado students to seek higher education by maintaining its affordability.



I recognize the very real financial constraints facing our colleges and universities. However, I believe that the level of tuition increase for resident students should increase by a lower amount that is more reflective of the actual financial capacity of the people of Colorado. Therefore, in vetoing this footnote, I am directing the Colorado Commission on Higher Education to consult with the Governing Boards to prepare a tuition increase plan that is more affordable and reasonable for Colorado's families than 10% across the board increases. This plan should be submitted for my approval by June 1, 2003 for FY 2003-04 tuition levels.

39. **Footnote 54, page 110:** Department of Human Services, Executive Director's Office – The Department is requested to identify options for including indirect cost assessment and recovery information in the Long Bill. To this end, the Department is requested to examine its cost allocation methodology and report its findings to demonstrate that all statewide and departmental indirect costs are appropriately applied. Based on its findings, the Department is requested to recommend an option for incorporating this information into the Department's budget request for FY 2005-06. This information is requested to be submitted to the Joint Budget Committee on or before October 15, 2003.

This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and format of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

40. **Footnote 57, page 110:** Department of Human Services, Executive Director's Office, Special Purpose, Health Insurance Portability and Accountability Act of 1996 – It is the intent of the General Assembly that the Department re-evaluate the need for 1.0 FTE and associated funding provided in FY 2003-04 for a privacy officer for the purpose of compliance with the health insurance portability and accountability act of 1996. The Department is requested to provide information on the functions of the privacy officer, whether these activities will change once the Department is largely compliant and whether the job duties of the privacy officer can be transferred to existing FTE. This information is requested to be provided to the Joint Budget Committee or before October 1, 2005.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. Furthermore, the General Assembly has no authority to appropriate or prescribe limits on FTE. I will instruct the department to comply to the extent feasible.

41. **Footnote 58, page 110:** Department of Human Services, Office of Information Technology Services – The Department is requested to include in its annual budget request total information technology expenditures and, where applicable, associated FTE usage across the major budget divisions for the preceding actual fiscal year. Expenditures should be categorized as either Help Desk, Applications, Data Systems and Scheduling, Microcomputer/ Local Area Network, or Networks/ Telecommunications. This report should also include actual expenditures for microcomputer leases and the number of microcomputers associated with such expenditures.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and format of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote requires a substantial dedication of resources from the department. I will instruct the department to provide the information to the extent feasible within existing resources.

- 42. Footnote 62, pages 111 and 197:** Department of Human Services, Office of Operations; and Department of Personnel and Administration, Finance and Procurement, Real Estate Services Program – The Departments are requested to keep the Joint Budget Committee informed about the state's efforts to standardize operational maintenance requirements of its facilities statewide. The Departments are requested to provide annual updates to the Joint Budget Committee regarding these activities on or before October 15.

I vetoed this footnote last year. This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate. The Department of Personnel and Administration does not have authority to direct or recommend changes in operating budgets. I will direct the departments to comply with this footnote to the extent feasible.

- 43. Footnote 64, page 111:** Department of Human Services, Office of Operations, Utilities – Up to \$100,000 of the Department's utility appropriation may be used to develop and implement a program designed to decrease energy consumption. A portion of these funds may be used to hire an energy program manager.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. The General Assembly has no authority to appropriate or prescribe limits on FTE. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department and the Controller to follow the legislative intent of the footnote.

- 44. Footnote 68, page 112:** Department of Human Services, Division of Child Welfare – The Department is requested to reflect in its annual budget request the gross amount of payments to child welfare service providers, including amounts that were paid using revenues other than county, state, or federal tax revenues. The Department is requested to reflect such amounts for the last two actual fiscal years.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and format of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

45. **Footnote 70, page 112:** Department of Human Services, Division of Child Welfare, Foster and Adoptive Parent Recruitment, Training, and Support; and Division of Child Care, Child Care Licensing and Administration – The Division of Child Welfare and the Division of Child Care are requested to review existing rules concerning the investigation of reports of institutional abuse involving foster care homes, as well as the procedures currently used by county departments of social services in conducting such investigations. The Divisions are requested to seek input from county departments of social services and from foster parents concerning such rules and procedures in order to identify best practices and promote consistency among county departments. Finally, the Department is requested to make information available to foster parents concerning county department of social services' responsibility to investigate reports of abuse and neglect involving foster care homes and the procedures involved in such investigations.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

46. **Footnote 71, pages 112-113:** Department of Human Services, Division of Child Welfare, Child Welfare Services – The Department is requested to reflect in its annual budget request expenditures for the last two fiscal years for services that are now funded through this consolidated line item. Such data should include both the number of children for whom services were purchased and the average payment per child for the following services: Out-of-home placement care, subsidized adoption payments, case service payments related to subsidized adoptions, child welfare-related child care, and burials.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and format of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

47. **Footnote 72, page 113:** Department of Human Services, Division of Child Welfare, Child Welfare Services -- It is the intent of the General Assembly that the Department determine whether it would be possible and cost- effective to allow county departments of social services to use existing child welfare funding to provide in- home services, similar to those services provided through the Children's Extensive Support Waiver, to families with children with developmental disabilities who would otherwise be placed out of the home at the counties' expense. The Department is requested to report its findings to the Joint Budget Committee on or before November 1, 2003.

This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and format of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

48. **Footnote 73, page 113:** Department of Human Services, Division of Child Welfare, Family and Children's Programs – It is requested that \$1.5 million of the funds appropriated for this line item be used to assist county departments of social services in implementing and expanding family-and community-based services for adolescents. It is the intent of the General Assembly that such services be based on a program or programs that have been demonstrated to be effective in reducing the need for higher cost residential services.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

49. **Footnote 76, pages 113-114:** Department of Human Services, Office of Self Sufficiency, Colorado Works Program, County Block Grants – Pursuant to Sections 26-2-714 (7) and 26-2-714 (9), C. R. S., under certain conditions, a county may transfer federal Temporary Assistance for Needy Families (TANF) funds within its Colorado Works Program Block Grant to the federal child care development fund or to programs funded by Title XX of the federal Social Security Act. One of the conditions specified is that the amount a county transfers must be specified by the Department of Human Services as being available for transfer within the limitation imposed by federal law. It is the intent of the General Assembly that the Department allow individual counties to transfer a greater percent of federal TANF funds than the state is allowed under federal law as long as: (a) Each county has had an opportunity to transfer an amount up to the federal maximum allowed; and, (b) the total amount transferred statewide does not exceed the federal maximum.

I vetoed this footnote last year. This footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill by specifying conditions when individual counties are to transfer a greater percent of federal TANF funds than the State is allowed under federal law. Furthermore, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. I will instruct the department to comply with the intent of the footnote to the extent feasible.

50. **Footnote 77, page 114:** Department of Human Services, Office of Self Sufficiency, Colorado Works Program, County Training; and Community Resource Investment Liaison – The Department is requested to utilize a portion of the funding provided through these line items, in addition to other available resources, for the purpose of providing technical assistance and training for county staff concerning requirements of the federal Americans with Disabilities Act and the provision of services to special needs populations.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

51. **Footnote 78, page 114:** Department of Human Services, Office of Self Sufficiency, Special Purpose Welfare Programs, Low Income Energy Assistance Program – The cash funds exempt appropriation for this line item represents an estimate of donations the Department anticipates

receiving from the Colorado Energy Assistance Foundation. It is the intent of the General Assembly that if actual cash funds exempt expenditures that are eligible to be counted as part of the State's maintenance of effort for the federal Temporary Assistance for Needy Families program exceed the appropriated amount, the Department should report actual eligible expenditures to the federal government for such purpose.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply to the extent feasible.

- 52. Footnote 80, page 114:** Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Mental Health Community Programs; and Mental Health Institutes – The Department is requested to provide a report by November 1, 2003, with an update to be provided on or before February 1, 2004, concerning its progress and plans for enhancement of community mental health resources for adults and children and associated reductions in the need for placements at the Mental Health Institutes. The report should specifically address the quality of care and success of community services being funded as alternatives to inpatient hospitalization. The report should also provide recommendations concerning the mission, appropriate patient population, future size, and governance structure of the mental health institutes.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. This footnote requires a substantial dedication of resources from the department. Additionally, the department will not have enough time to evaluate quality and success by November 1, 2003. I will instruct the department to provide the information to the extent feasible within existing resources.

- 53. Footnote 81, pages 114-115:** Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Mental Health Community Programs, Goebel Lawsuit Settlement – Funding included in this line item represents only a portion of total expenditures for the Goebel Lawsuit Settlement. The Department is requested to include, as part of its annual budget submission, a summary of all actual, estimated, and requested state appropriations for the Goebel class by Long Bill line item. The Department is also requested to submit a report by January 5, 2004, that includes the actual audited revenues and expenditures for services for members of the Goebel plaintiff class.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and format of the executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will direct the department to comply to the extent feasible.

- 54. Footnote 82, page 115:** Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Mental Health Community Programs, Goebel Lawsuit Settlement – The Department is requested to submit a report no later than February 15, 2004, regarding the

percentage of Goebel Lawsuit Settlement expenditures that should be borne by the Medicaid program in FY 2003-04 and FY 2004-05. This report should be accompanied by any associated requests for FY 2003-04 and FY 2004-05 budget adjustments.

This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and format of the executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

- 55. Footnote 83, page 115:** Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Mental Health Institutes – The Department is requested to submit a report by October 1, 2003, on its progress and plans for complying with the settlement terms of the Neiberger class action lawsuit. The report should include detailed information regarding savings and expenditures associated with the transition of some members of the class to community placements and the reduction in beds at the Institute for Forensic Psychiatry.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill.

- 56. Footnote 85, page 115:** Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Mental Health Institutes – The Department is requested to actively pursue opportunities for generating additional revenue from the mental health institute properties at Fort Logan and Pueblo, including through rental and land-sales. The Department is requested to provide a report by November 1, 2003, to the Joint Budget Committee and the Capital Development Committee concerning the options under exploration, potential revenue, and any recommendations for associated statutory change that may be required.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate. The Department submitted a comprehensive report of opportunities for generating additional revenue from Mental Health Institute properties in March 2003, including potential revenue from land sales and rentals. Further investigation in this area would require appraisal of properties, identification of potential costs associated with environmental mitigation, and would require the involvement of the State contracted real estate broker, all of which would cost money. Additionally, only the State Land Board has the authority to sell the property. I will direct the department not to comply.

- 57. Footnote 86, pages 115-116:** Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Alcohol and Drug Abuse Division, Community Programs, Treatment Services, Treatment and Detox Contracts – The Department is requested to provide a report by November 1, 2003, concerning the cost-effectiveness of the Short-term Intensive Residential Remediation and Treatment program (STIRRT). The report should specifically consider whether STIRRT provides savings to the state by reducing demand for beds and other more

expensive rehabilitation alternatives in the Department of Corrections based on comparison of STIRRT graduates with a control group.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote requires a substantial dedication of resources from the department. I will instruct the department to provide the information to the extent feasible.

58. **Footnote 87, page 116:** Department of Human Services, Services for People with Disabilities, Developmental Disability Services, Community Services, Adult Program Costs – The Department is requested to survey of all individuals on the comprehensive services waiting list, in June 2003, to determine when each individual will need comprehensive services. The Department is requested to report the results of the CCB surveys in the submission of the FY 2004-05 budget request to the Joint Budget Committee.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and format of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

59. **Footnote 88a, page 116:** Department of Human Services, Services for People with Disabilities, Developmental Disability Services, Community Services, Adult Program Costs; and Services for Children and Families – It is the intent of the General Assembly that the reduction in State Supported Living Services funding shall not result in fewer consumers being served and shall be implemented in such a manner as to reduce the average funding level per consumer currently enrolled in the program. It is the intent of the General Assembly that Community Centered Boards implement this service reduction on a locally determined basis. It is the intent of the General Assembly that Community Centered Boards continue to serve no fewer consumers in the Family Support Services Program than the number for whom funding was provided by the State in FY 2002-03, despite the reduction in FY 2003-04 funding for this program. It is the intent of the General Assembly that Community Centered Boards implement this service reduction on a locally determined basis.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. The Department does not intend to reduce the number of people served in these programs. I will instruct the Department to comply with the intent of the footnote to the extent feasible.

60. **Footnote 88b, page 116:** Department of Human Services, Services for People with Disabilities, Developmental Disability Services, Regional Centers – The Department is requested to develop options for downsizing the state's regional centers in an effort to comply with the Olmstead v. L.C. Supreme Court decision and to reduce program expenditures

associated with these state facilities. The options provided to the Joint Budget Committee should include estimates of a minimum number of persons being served by the regional centers; identification of populations to be served in state facilities if any; and estimated costs and savings associated with these options including the sale of state property and facilities. The Department is requested to work with the community centered boards and other stakeholder groups in the development of these options. The department is requested to submit these options to the Joint Budget Committee on or before October 1, 2004.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill.

61. **Footnote 89, page 117:** Department of Human Services, Services for People with Disabilities, Developmental Disability Services, Services for Children and Families – It is the intent of the General Assembly that the Department insure that resources provided for services to children with developmental disabilities are targeted toward families that are most in need. To that end, the Department is requested to provide options for appropriate programmatic changes for the early intervention and family support programs and to develop a proposal for a Medicaid buy-in program for families and children in the children's extensive support program. The Department is requested to submit this proposal to the Joint Budget Committee on or before October 15, 2003.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. However, I agree that services should be targeted towards families that are most in need, therefore I will instruct the department to comply with the intent of the footnote to the extent feasible.

62. **Footnote 95, page 118:** Department of Human Services, Division of Youth Corrections, Community Programs, S.B. 91-94 Programs – It is the intent of the General Assembly that funds appropriated for Senate Bill 91-94 programs shall be for the purpose of providing alternative services for juveniles determined to be at imminent risk of being placed in a detention or commitment facility and providing services designed to reduce the length of stay of juveniles placed in Division facilities. In an effort to improve the effectiveness of S.B. 91 94 in reducing detention and commitment populations, the Division is requested to focus S.B. 91-94 funds on programs and services that will most effectively reduce populations in Division facilities, including intake screening, assessment, and case management services and other services designed to divert youth from placement in secure facilities.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote to the extent feasible.



63. **Footnote 101, pages 130-131:** Judicial Department, Supreme Court/Court of Appeals, Appellate Court Programs; Trial Courts, Trial Court Programs; Public Defender, Personal Services; Alternate Defense Counsel, Personal Services – In accordance with Section 13-30-104 (3), C.R.S., funding is provided for a one-year increase in judicial compensation, as follows:

	Current Salary	Increase	FY 2003-04 Salary
Chief Justice, Supreme Court	116,117	3,716	119,833
Associate Justice, Supreme Court	113,637	3,636	117,273
Chief Judge, Court of Appeals	111,637	3,572	115,209
Associate Judge, Court of Appeals	109,137	3,492	112,629
District Court Judge	104,637	3,348	107,985
County Court Judge	100,137	3,204	103,341

Judicial increases are based upon the percentage salary survey increase received by ALJ III's. Funding is provided to maintain the salary of the Public Defender at the level of an associate judge of the Court Appeals, and to maintain the salary of the Alternate Defense Counsel at the level of a district court judge.

It is my intent to sign a subsequent bill eliminating salary survey increases. This veto is consistent with that intent.

64. **Footnote 105, page 132:** Judicial Department, Trial Courts, Mandated Costs – The Department is requested to report all court-related costs associated with death penalty cases as part of the Department's annual budget request.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

The footnote requests information only on death penalty cases. I find it curious that the General Assembly is not interested in the costs of other types of court cases.

65. **Footnote 111, page 133:** Judicial Department, Public Defender – The Public Defender shall provide a report on the number of hours, dollars, and FTE utilized by the office in death penalty cases during the most recently completed fiscal year. In addition, the report shall include the number of motions filed by the office and the number of motions responded to by the office in death penalty cases during the fiscal year. This report shall be submitted as part of the Public Defender's annual budget request.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

The footnote requests information only on death penalty cases. I find it curious that the General Assembly is not interested in the costs of other types of court cases.

66. **Footnote 114, page 133:** Judicial Department, Alternate Defense Counsel – The Alternate Defense Counsel shall provide a report to the General Assembly on the number of hours, dollars, and contract FTE utilized by the office in death penalty cases during the most recently completed fiscal year. In addition, the report shall include the number of motions filed by the office and the number of motions responded to by the office in death penalty cases during the fiscal year. This report should be submitted as part of the Alternate Defense Counsel's annual budget request.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

The footnote requests information only on death penalty cases. I find it curious that the General Assembly is not interested in the costs of other types of court cases.

67. **Footnote 124, page 141:** Department of Labor and Employment, Executive Director's Office, Operating Expenses – The Department is requested to include estimated costs of computer contract maintenance agreements in its annual budget request.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and format of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will instruct the department to comply to the extent feasible.

68. **Footnote 125, page 141:** Department of Labor and Employment, Division of Employment and Training, Unemployment Insurance Fraud Program – The Department is requested to include in its annual budget request information on fraud detection and recovery, including, but not limited to, an estimate of the amount of unemployment insurance fraud that may have occurred in FY 2002-03, how much of this fraud was detected, and how much of this fraud was recovered.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and format of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will instruct the department to comply to the extent feasible.

69. **Footnote 126, page 141:** Department of Labor and Employment, Division of Employment and Training, Employment and Training Programs, State Operations – It is the intent of the General Assembly that, of this appropriation, \$114,707 be awarded as grants to one stop job centers that provide services to displaced homemakers.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will instruct the department to comply to the extent feasible, while considering options to maximize the number of individuals served.

70. **Footnote 127, pages 141-142:** Department of Labor and Employment, Division of Employment and Training, Employment and Training Programs, Welfare-to-Work Block Grant – It is the intent of the General Assembly that the Department count a portion of the General Fund or cash funds exempt appropriated to the Department of Human Services, Self-Sufficiency, for Colorado Works Program County Block Grants, as the state match for federal Welfare-to-Work Block Grant funds. However, it is the intent of the General Assembly that only that portion of such funds that exceeds the minimum federal maintenance of effort requirement for the Temporary Assistance to Needy Families program be used in such a manner. In addition, the Department is requested to identify any other existing resources that could be counted as the state's match for the federal Welfare-to-Work Block Grant. Such existing resources may include, but need not be limited to: State funds appropriated for programs administered by the Department of Corrections, the Department of Education, the Department of Higher Education, the Department of Human Services, the Department of Local Affairs, and the Department of Public Safety; tax credits provided to employers that hire individuals receiving public assistance; and reduced-price bus passes provided through the Regional Transportation District to individuals receiving public assistance.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will instruct the department to comply to the extent feasible.

71. **Footnote 128, page 142:** Department of Labor and Employment, Division of Employment and Training, Employment and Training Programs, Welfare-to-Work Block Grant – The Department is requested to include in its annual budget request information regarding the allocation of the 15 percent discretionary funds. Such information should include, but not be limited to, the names of the organizations that receive discretionary funds, the amount of such awards, a description of the organizations' collaboration with the region's One-Stop Job Center, and an explanation of any discretionary funds awarded to community-based organizations that do not collaborate with a One-Stop Job Center.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and format of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will instruct the department to comply to the extent feasible.

72. **Footnote 128a, page 142:** Department of Labor and Employment, Division of Workers' Compensation – The Division of Workers' Compensation shall collect data on workers' compensation claims for the purposes of setting appropriate rates for workers' compensation insurance premiums.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, as the department does not set rates for worker's compensation premiums, thus this footnote may be construed to go beyond the scope of the Department of Labor and Employment's statutory

responsibilities, I will instruct the department to continue to collect the data on worker's compensation claims that it has historically collected.

73. **Footnote 134, page 149:** Department of Law, Criminal Justice and Appellate, Capital Crimes Prosecution Unit – The Department is requested to report to the Joint Budget Committee, no later than October 15, 2003, on the allocation of Department resources in FY 2002-03 for death penalty cases. The report should itemize the number of hours and dollars dedicated to all aspects of the Department's work on death penalty cases, including researching and drafting, case investigation, and appearances in court. The report should also include information about the number of motions filed by the Department, as well as the number of motions responded to by the Department, in death penalty cases. The information requested should be provided for all Department units involved in prosecuting death penalty cases, including the Capital Crimes Unit and the Appellate Section.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

The footnote requests information only on death penalty cases. I find it curious that the General Assembly is not interested in the costs of other types of court cases.

74. **Footnote 138, page 161:** Department of Local Affairs, Division of Housing – The Division of Housing is requested to provide a report to the Joint Budget Committee by November 1, 2003, on its efforts to eliminate regulatory barriers to the construction of affordable housing. The report should include a review of the types and prevalence of local regulatory barriers to affordable housing, a review of the steps the Division of Housing is taking to reduce these barriers, and a report on the effectiveness of the Division's efforts.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote constitutes an unfunded mandate as it expects an extensive report from a line with only \$10,000 of funding.

75. **Footnote 139, page 161:** Department of Local Affairs, Division of Housing – The Division of Housing is requested to provide a report to the Joint Budget Committee by November 1, 2003, on the impact of its programs to address the lack of affordable housing for renters and home buyers. This report should include a review of housing needs in the state, a review of state, federal, and local programs for addressing affordable housing needs, data on the impact of these programs, and an analysis of the impact of current state affordable housing policies, including proposed policy changes.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote constitutes an

unfunded mandate as it expects an extensive report from a line with only \$10,000 of funding.

- 76. Footnote 143, page 181:** Department of Natural Resources, Oil and Gas Conservation Commission, Accelerated Drilling – It is the intent of the General Assembly that this line item continue to exist as long as the workload continues and revenue is available to fund these activities. If workloads decrease or revenues are insufficient, this line item and the associated FTE shall be eliminated. The Oil and Gas Conservation Commission should continue to provide in the annual budget request document an annual justification for the continuation of this line item because of continuing or increasing workloads. It is the intent of the General Assembly that this line item not be merged with any other line item within the Oil and Gas Conservation Commission budget.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to appropriate FTE, and by dictating the content and structure of the Executive budget submission. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will direct the department to comply with the intent of the footnote to the extent feasible.

- 77. Footnote 144, page 181:** Department of Natural Resources, State Board of Land Commissioners – The FY 2003-04 appropriation refinances the State Board of Land Commissioners administrative costs, which allows additional dollars to flow into the State Income Fund for school finance in FY 2003-04. It is the intent of the General Assembly that the refinancing methodology of the State Board of Land Commissioners be reviewed to determine the appropriateness of this continued financing methodology in FY 2004-05. The Department is requested to include an analysis in its November 1 budget submission detailing the programmatic and fiscal impact of this refinancing and the viability of continuing this methodology in FY 2004-05.

This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and structure of the Executive budget submission. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will direct the department to comply with the intent of the footnote to the extent feasible.

- 78. Footnote 145, page 182:** Department of Natural Resources, Parks and Outdoor Recreation; Division of Wildlife – It is the intent of the General Assembly that the Division of Wildlife and the Division of Parks and Outdoor Recreation align their processes for requesting grants from the Great Outdoors Colorado (GOCO) Board with the process of requesting appropriations from the General Assembly. Such alignment should include the process for requesting both base funding and Legacy funding from the GOCO Board. Further, the two divisions are requested to include their requests for funding from the GOCO Board with the Department's annual budget request. The two divisions are also requested to submit their FY 2004-05 budget requests to the GOCO Board by October 1, 2003, so that they may be approved no later than December 1, 2003. Finally, the two divisions are requested to submit budget amendments by the normal January deadlines to reflect any changes from the GOCO Board requests, as

contained in the Department's annual budget requests, and the actual amounts awarded by the GOCO Board.

The General Assembly has no authority to appropriate funds from Great Outdoors Colorado. Furthermore, This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. I will direct the department to comply with the intent of the footnote to the extent feasible.

79. **Footnote 149, page 182:** Department of Natural Resources, Water Resources Division, Personal Services – It is the intent of the General Assembly that 2.0 FTE authorized to eliminate the backlog in final permitting be eliminated at the end of FY 2006-07.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. The General Assembly has no authority to appropriate or prescribe limits on FTE. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

80. **Footnote 150, pages 182-183:** Department of Natural Resources, Division of Wildlife – Great Outdoors Colorado Board grants are shown for informational purposes only. Funds from the Great Outdoors Colorado Board are not subject to appropriation by the Legislature pursuant to Article XXVII, Section 5, of the Colorado Constitution. However, the General Assembly accepts no obligation to continue funding these FTE and programs if Great Outdoors Colorado funds are no longer available. The General Assembly retains authority to determine appropriations from the Wildlife Cash Fund, other State funds, and state-funded FTE used to match projects receiving funding from Great Outdoors Colorado.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution because the General Assembly has no authority to appropriate FTE. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote implies restrictions on the Division of Parks and Outdoor Recreation regarding the receipt of funds from Great Outdoors Colorado. The General Assembly has no authority to appropriate funds from Great Outdoors Colorado.

81. **Footnote 151, page 183:** Department of Natural Resources, Division of Wildlife – The General Assembly requests that the Division of Wildlife submit a zero-based budget as part of its FY 2004-05 budget request. The zero-based budget is requested to be submitted by November 1, 2003, and is requested to prioritize the work packages contained in the Division's Long Range Plan.

This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and structure of the Executive budget submission. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general

appropriations bill. I will direct the department to comply with the intent of the footnote to the extent feasible.

- 82. Footnote 153, page 197:** Department of Personnel and Administration, Division of Information Technology, Network Services, Telecommunications Audit Expense – The Department of Personnel and Administration is requested to perform a telecommunications audit on its billings and invoices and report any savings for FY 2003-04 identified by this audit to the Joint Budget Committee, showing savings by department, line item, and fund source by January 1, 2004. It is the intent of the General Assembly that this information will be used to reduce statewide appropriations during the supplemental process for FY 2003-04.

This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and structure of the Executive budget submission. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote to the extent feasible.

- 83. Footnote 154, page 198:** Department of Personnel and Administration, Division of Information Technology, Computer Services – It is requested that the Department of Personnel perform an annual mid-year review of actual usage compared to agency appropriations in order to determine the accuracy of the cost allocation billing methodology for General Government Computer Center (GGCC) services. This information should be submitted to the Joint Budget Committee for review no later than January 1, 2004, for statewide supplemental consideration.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and structure of the Executive budget submission. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

- 84. Footnote 155, page 198:** Department of Personnel and Administration, Administrative Hearings – It is the intent of the General Assembly that the Department of Personnel perform an annual mid-year review of actual usage compared to agency appropriations in order to determine the accuracy of the cost allocation billing methodology for Administrative Hearings services. This information should be submitted to the Joint Budget Committee for review no later than January 1, 2004, for statewide supplemental consideration.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and structure of the Executive budget submission. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

- 85. Footnote 156, page 226:** Department of Public Health and Environment, Administration and Support – It is the intent of the General Assembly that the Department shall not exceed the

total FTE authorization included in the Long Bill, and that any transfer of FTE between divisions within the Department should be limited to federally-funded grants or programs and again should not exceed the total authorized level. Any exception to this policy should be limited to federal funds and should be reported to the Joint Budget Committee, documenting the source and amount of funding, increase in number of FTE, activities to be performed, and anticipated time frame for continued receipt of new funding.

I vetoed this footnote last year. The footnote violates the separation of powers in Article III of the Colorado Constitution. The General Assembly does not have the authority to appropriate FTE or federal funds. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

86. **Footnote 157, page 226:** Department of Public Health and Environment, Administration and Support – The Department is requested to submit a report by October 1, 2003, to Joint Budget Committee listing all block grants the Department will receive for FY 2003-04 and is expecting to receive for FY 2004-05. The report should also include a description of the grant, and line items in the Long Bill each grant is being used to finance. The report should include all line items with a General Fund appropriation for which block grants could be used.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Furthermore, the General Assembly does not have appropriating authority over grant funds. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

87. **Footnote 158, page 226:** Department of Public Health and Environment, Administration and Support – The Department is requested to submit a report by October 1, 2002, to Joint Budget Committee listing all block grants the Department is receiving for FY 2003-04 and is expecting to receive for FY 2004-05. The report should also include a description of the grant, and which line items in the Long Bill each grant is being used to fund. The report should match each block grant with all potential Long Bill line items that are eligible for funding.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Furthermore, the General Assembly does not have appropriating authority over grant funds. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

88. **Footnote 160, page 227:** Department of Public Health and Environment, Hazardous Materials and Waste Management Division, Contaminated Site Cleanups – The Department is requested to submit a report on its CERCLA program. This report is requested to include detailed expenditures for the program, including out-year estimates by project and associated project financing. The report should also include an analysis of long-term funding needs of the State in responding to, litigating, and cleaning up CERCLA sites, including estimated long-term maintenance costs for these sites. The report should also provide information on the Hazardous Substance Response Fund balance and out-year fiscal estimates. This report is requested to be provided to the Joint Budget Committee by no later than November 1, 2003.



This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate. I will direct the departments to comply to the extent feasible.

89. **Footnote 162, page 227:** Department of Public Health and Environment, Disease Control and Environmental Epidemiology Division, Special Purpose Disease Control Programs, Tuberculosis Control and Treatment – The Department is requested to provide, with its annual budget submission, a listing of counties which participate in tuberculosis control. Information should include, but not be limited to, the number of patients served for tuberculosis infection and active tuberculosis in each county, the total costs associated with all aspects of treatment and control by county, and a breakout of each revenue source. This information would account for counties' 20-percent match required in Section 25-4-513, C. R. S. This information should be provided for one actual year, the estimate year, and the request year.

This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and structure of the Executive budget submission. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

90. **Footnote 163, page 227:** Department of Public Health and Environment, Prevention and Intervention Services for Children and Youth, Child, Adolescent, and School Health, Federal Grants – The Department is requested to provide to the Joint Budget Committee, with its annual budget submission, a detailed plan explaining how federal Maternal Child Health Block Grant abstinence funds are to be used in state FY 2003-04. This information should include, but is not limited to: the amount and duration of anticipated funding; list of grantees; intent and objectives of associated program(s); targeted program population, including a breakout by age group; and performance measures.

This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and structure of the Executive budget submission. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

91. **Footnote 164, pages 227-228:** Department of Public Health and Environment, Health Promotion and Disease Prevention, Prevention Programs, Chronic Disease and Cancer Prevention Grants – The General Assembly accepts no obligation to continue funding for these programs when federal funds are no longer available. Any match requirements for these federal grants are to be provided by non-state sources. The Department is requested to document the sources of matching funds, which should be submitted to the Joint Budget Committee annually with its budget request, and which would serve as proof of the required state match for these federal dollars.

This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and structure of the Executive budget submission. In addition, this footnote may violate Article V, Section 32 because it constitutes

substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

- 92. Footnote 166, page 228:** Department of Public Health and Environment, Health Promotion and Disease Prevention, Women's Health - Family Planning, Purchase of Services – The Department is requested to submit a report to the Joint Budget Committee with its annual budget submission. This report should include, but not be limited to, a detailed explanation of how state funds are expended by each contractor receiving any amount of state funds for the family planning program. Reporting should be completed for each contract organization, including public, private, and non-profit organizations, and should itemize expenditures for the previous fiscal year actual amounts, the current fiscal year estimated amounts, and the request fiscal year amounts.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and structure of the Executive budget submission. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote to the extent feasible.

- 93. Footnote 167, page 228:** Department of Public Health and Environment, Health Promotion and Disease Prevention, Women's Health - Family Planning, Purchase of Services – It is the intent of the General Assembly that a portion of the funds for this program be used for peer intervention efforts. The Department is requested to include the following information in its annual budget submission: A listing of peer intervention programs which have been awarded family planning dollars and the amount of funds given to each; and the number of teens that participated in listed peer intervention programs.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and format of the Executive budget submission and by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

- 94. Footnote 168, page 242:** Department of Public Safety, Executive Director's Office, Special Programs, Colorado Integrated Criminal Justice Information System (CICJIS) – It is the intent of the General Assembly that with this appropriation the Colorado Bureau of Investigation in the Department of Public Safety, the Judicial Department, the Department of Corrections, the Division of Youth Corrections in the Department of Human Services, and the Colorado District Attorneys' Council should be able to improve the Colorado Integrated Criminal Justice Information System to achieve a match between felony court filings and the initial charges in at least ninety percent of the cases by December 31, 2003, and ninety-five percent of the cases by June 30, 2004.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I

understand the importance of increasing the disposition match rate and will direct the department to make improving the performance of the system a priority.

95. **Footnote 169, page 242:** Department of Public Safety, Colorado State Patrol – The Department is requested to submit to the Joint Budget Committee a detailed summary of FTE assigned to the field and to special programs on a quarterly basis beginning on August 15, 2003. Each quarterly report should include comparative information about the historical assignment of all uniformed positions, vacant positions, State Patrol Academy graduates, employee turnover (including service and disability retirements), and trooper deployment.

This footnote violates the separation of powers in Article III of the Colorado Constitution. The General Assembly does not have the authority to appropriate FTE. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will direct the department to comply with the intent of the footnote.

96. **Footnote 170, page 242:** Department of Public Safety, Division of Criminal Justice, Administration, Personal Services – It is the intent of the General Assembly that the Division of Criminal Justice use the appropriation to this line item to fulfill its statutory responsibilities pertaining to parole guidelines pursuant to section 17-22.5-404 (6), C.R.S.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

97. **Footnote 171, page 242:** Department of Public Safety, Division of Criminal Justice, Victims Assistance, State Victims Assistance and Law Enforcement Program – It is the intent of the General Assembly that the VALE Board allocate \$63,521 from the VALE Fund in FY 2003-04 to the Department of Law for the position of victim services coordinator. The VALE Board is expected to adjust its grant awards to other programs and State agencies to accommodate the amount that shall be provided to the Department of Law.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Moreover, the General Assembly has no authority to appropriate or prescribe limits on FTE. In addition, this footnote violates Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. This footnote constitutes a substantive change in the law by controlling the distribution of dollars from the VALE fund. I will direct the department not to comply with this footnote.

98. **Footnote 174, page 243:** Department of Public Safety, Colorado Bureau of Investigation, Investigative Services – It is the intent of the General Assembly that a portion of the costs for genetic testing of sex offenders shall be paid from the Sex Offender Identification Fund created in Section 24-33.5-415.5, C.R.S., as soon as there are sufficient revenues in the fund. To this end, the General Assembly requests that the Colorado Bureau of Investigation submit a report to the Joint Budget Committee by October 1, 2003, on the revenues and balance of the sex offender identification fund and the cost of genetic testing of sex offenders. This report should

also include an analysis of ways to increase the success of collecting reasonable testing fees from sex offenders, including but not limited to evaluating what methods could be implemented to increase revenues or reduce costs in order to make this program self-sufficient in future fiscal years.

I vetoed this footnote last year. This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, the Sex Offender Identification Fund is maintained by the Judicial Department. It is not reasonable for the department to perform any study or analysis regarding revenue sources for a fund that is outside of its authority.

- 99. Footnote 176, page 266:** Department of Revenue, Information Technology Division – The Department of Revenue is requested to submit a status report on the Department's major computer projects to the Joint Budget Committee with its November 1 budget request. The following projects should be included in this report: (1) Colorado State Titling and Registration System; (2) the Colorado Tax Application; and (3) the Lottery Division's Wang System Replacement. The status report should include a summary of any problems that have been encountered with revised time and cost estimates to complete the projects.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format and content of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will direct the department to comply to the extent feasible within existing resources.

- 100. Footnote 177, page 266:** Department of Revenue, Information Technology Division – The Department of Revenue is requested to consistently reflect additional computer programming costs in fiscal notes for proposed legislation. The Department is requested to meet with the Legislative Council fiscal note staff and the Joint Budget Committee staff in an effort to continually revise and update the policy of reflecting programming costs with regard to legislative bills. The Department is requested to submit, with its November 2003 budget request for FY 2004-05, a memorandum explaining its policy with respect to reflecting additional computer programming costs in fiscal notes for legislation during the 2004 legislative session. The Department is requested to submit a negative supplemental request for any estimated savings associated with implementing legislation enacted during the 2003 legislative session.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format and content of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will direct the department to comply to the extent practicable.

- 101. Footnote 180, pages 266-267:** Department of Revenue, Motor Vehicle Business Group, Motorist Insurance Identification Database Program – The Department is requested to submit a

progress report to the Joint Budget Committee on the implementation of this program by November 1, 2003. The report is requested to summarize: (a) the steps taken by the Department to implement the statutory provisions authorizing the Department to administratively suspend motor vehicle registrations for failure to provide proof of insurance; (b) the resources that have been used to suspend motor vehicle registrations; (c) the number of administrative suspensions from July 1, 2002, through September 30, 2003; and (d) the number of individuals who have failed to provide proof of insurance within 45 days of being requested to do so by the Department from July 1, 2002, through September 30, 2003.

I vetoed this footnote last year. This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate. I will direct the department to comply to the extent feasible within existing resources.

- 102. Footnote 181, page 267:** Department of Revenue, Enforcement Business Group, State Lottery Division – The State Lottery Division shall deposit all liquidated damages into the Lottery Fund. The Department shall not receive any goods or services in lieu of an assessment of liquidated damages nor shall the Department require a vendor to purchase goods or services in lieu of an assessment of liquidated damages.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply to the extent feasible.

- 103. Footnote 182, page 267:** Department of Revenue, Enforcement Business Group, State Lottery Division – The State Lottery Division is requested to submit a report to the Joint Budget Committee by November 1, 2003, summarizing the specific provisions and costs of the new online vendor contract, including a discussion of expanded functionality and ongoing cost savings as compared to the previous online vendor contract. The report should also summarize and explain any potential increases in contract expenditures expected during FY 2004-05 and throughout the life of the contract, and should offer a comparison of these expenditures to the estimates offered as support for the Joint Budget Committee's approval of the new online vendor contract in the Department's FY 2003-04 budget request.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. Moreover, information more recent than that contained in the department's FY 2003-04 budget submission will not be available until after the implementation of the new online vendor contract in October 2004. As such, any effort in this direction would not be the best use of State resources.

**104. Footnote 186, page 274:** Department of Transportation, Administration – The Department is requested to complete state budget forms for Administration personal services that provide information for each office or section within the Administration line item. This information should be sufficiently detailed to allow calculation for Option 8 purposes. PERA and Medicare should also be provided by the individual section or office. Additionally, the Department should include subtotals for salary and FTE for each of the offices within the Administration line item information currently supplied.

This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format and content of the Executive budget submission, and implies intent to appropriate FTE. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

The actions I am taking are based upon legal opinions and court decisions regarding inclusions in the general appropriations bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Owens", followed by a period.

Bill Owens  
Governor